
Appeal Decision

Site visit made on 4 February 2020

by R E Walker BA Hons DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 February 2020

Appeal Ref: APP/U5360/W/19/3241283

6 Brooke Road, Hackney, London N16 7LS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Ebrahim Patel against the decision of the Council of the London Borough of Hackney.
 - The application Ref 2019/1093, dated 22 March 2019, was refused by notice dated 17 May 2019.
 - The development proposed is conversion of the basement into a self-contained flat including the excavation of two front lightwells and elevational changes on the Leswin Road elevation.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The description on the decision notice and application form differ. The appellant has confirmed that the revised description is agreed. Accordingly, I have used the agreed description of development in the banner heading above.

Main Issue

3. Whether the development would provide adequate living conditions for future occupiers of the basement flat with particular reference to light, outlook and ventilation.

Reasons

4. The appeal property is a 3-storey building positioned on the corner of Brooke Road and Leswin Road. The existing basement is currently used for storage purposes in connection with the property.
5. The appellant has referred me to the Council's Residential Extensions and Alterations Supplementary Planning Document (SPD) (2009). This SPD sets guidance for, amongst other things, basement conversions, including reference to an unobstructed 30-degree angle measured vertically from the middle of a window within a lightwell. I recognise that the design of the lightwell means that this proposal would comply with the 30-degree guide although I note that the SPD does advise that this guide is dependent on the size and shape of the basement room.

6. The SPD pre-dates the Mayor of London Housing and Supplementary Planning Guidance (SPG) (2016) which offers more detailed guidance on new housing such as the proposal before me. As such, I give greater weight to this SPG than the Council's SPD in considering the appeal proposal before me. Regarding daylight the SPG refers to the Building Research Establishment's (BRE) guidelines¹ and although I recognise that an appropriate degree of flexibility needs to be applied when using the BRE guidelines, it nonetheless provides a useful methodology to assess the levels of daylight and sunlight achieved within developments.
7. The appellant's Sunlight and Daylight Report shows that the daylight received by the bedrooms would meet the levels of the BRE guidelines. I recognise that amendments have been made to a previous scheme with a view to finding a solution. However, despite the large floor to ceiling windows and large lightwell the proposed kitchen/living/dining room would fall below the BRE guidelines. Given the importance of this room, as the main habitable room, to the living conditions associated with the flat I place significant weight on this shortfall.
8. The layout of the proposed flat would also incorporate a bathroom, utility room, hallway and storage room with no access to natural daylight. Although not determinative, the lack of light in these rooms adds to my concerns that the flat would have poor access to natural light. As such, in my view the proposed levels of natural light within the flat would result in inadequate living conditions for future occupiers.
9. The walls of the proposed lightwells would limit the outlook from the flat. However, the lightwells are a reasonable size and I do not consider that they would result in an oppressive outlook or undue sense of enclosure. I recognise that most bedrooms are single aspect only and indeed many flats are also designed to be single aspect. In this respect, being single aspect does not, on its own, result in unacceptable living conditions.
10. Ventilation would be provided through the windows within the lightwells, trickle ventilation and a mechanical ventilation system and I have no substantive evidence before me that this would be inadequate.
11. I have been referred to several other properties in the area that have basement accommodation served by lightwells and I did see other lightwells along Brooke Road. However, I do not have full details of the circumstances that led to these proposals being accepted and so cannot be sure that they represent a direct parallel to the appeal proposal, including in respect of layout and access to daylight. In this respect, my concerns relate not to the principle of basement accommodation but to the specific layout and resulting living conditions of future occupiers of this proposed basement flat with particular reference to light. As such, I have determined the appeal on its own merits.
12. I therefore conclude that the proposal would result in adequate outlook and ventilation. However, and recognising that natural light to the bedrooms would meet the BRE guidelines, overall, the proposal would result in inadequate living conditions for future occupiers of the basement flat with particular reference to light.

¹ Site layout planning for daylight and sunlight: a guide to good practice (BR209), P Littlefair, 2011

13. The proposal would therefore conflict with the requirements of Policy 3.5 of the London Plan (LP) (2016), Policies DM1 and DM2 of the Hackney Development Management Local Plan (HLP) (2015) and the SPG. These say, amongst other things, that development proposals should be appropriate to their location and should be designed to ensure that they will not result in significant adverse impacts on the amenity of occupiers.
14. The Council also refer to Policy 24 of the Hackney Local Development Framework Core Strategy (CS) (2010) in its reason for refusal. However, this policy appears to be more concerned with design in respect of the character and appearance of a proposal rather than living conditions. As such, I do not consider Policy 24 of the CS to be determinative in the appeal before me.
15. Policies 3.5 of the LP and DM1 and DM2 of the HLP are consistent with the provisions of the National Planning Policy Framework (the Framework) and can therefore be given significant weight. The development also conflicts with the requirements of paragraph 127 of the Framework which seeks, amongst other things, to ensure good standards of living conditions for future occupants.

Other Matters

16. The appeal site lies on the edge of, but outside, the Stoke Newington Conservation Area (CA). The Council does not consider that the proposal would harm the setting of this CA in accordance with Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990. For the reasons given in the Planning Officer's Report I would reach the same conclusion. This is a neutral matter weighing neither for or against the proposal.
17. I recognise that the proposal seeks to make an effective use of the existing property an objective which is supported by the Framework. Moreover, the proposed development would be of benefit to the local housing market in providing additional housing. However, a net gain of a single dwelling would only have a limited impact in the context of the overall housing supply, and I attach limited weight to the benefit in that regard.

Conclusion

18. I have had regard to all other matters raised including the benefits of the proposal. However, the limited benefits associated with the additional dwelling do not outweigh the significant harm I have identified to the living conditions of the future occupants of the basement flat with particular reference to light.
19. I therefore conclude that the appeal should be dismissed.

Robert Walker

INSPECTOR